

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	CIVIL ACTION NO. 3:07-cv-00400
)	
)	
Plaintiff,)	
)	<u>COMPLAINT</u>
v.)	
)	
BODA PLUMBING, INC.,)	<u>JURY TRIAL DEMAND</u>
)	
Defendant.)	
)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of race and to provide appropriate relief to Anthrone Cunningham who was adversely affected by the practices. The U.S. Equal Employment Opportunity Commission (“Commission”) alleges that Defendant Boda Plumbing, Inc. (“Defendant”) discriminated against Anthrone Cunningham by subjecting him to a racially hostile work environment because of his race, African American.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of North Carolina.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII of the Civil Rights Act of 1964, and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant has continuously been a North Carolina corporation doing business in the state of North Carolina and has continuously employed at least fifteen employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Anthrone Cunningham filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. From around September 2005 until around December 2005, Defendant engaged in unlawful employment practices in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-2(a)(1). Specifically, Defendant subjected Anthrone Cunningham to discrimination based on his race, African American, by subjecting him to severe or pervasive derogatory racial comments at various work sites that created a racially hostile work environment. The racial comments were unwelcome to Mr. Cunningham, and included use of the term “nigger.” The harassment was perpetrated by Mr. Cunningham’s co-workers. Although Mr. Cunningham complained to Defendant about the racial harassment beginning in or around September 2005, and Defendant

otherwise knew or reasonably should have known about the racial harassment, Defendant failed to take prompt and effective action to stop the harassment.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Anthrone Cunningham of equal employment opportunities and otherwise adversely affect his status as an employee because of his race, African American.

9. The unlawful employment practices complained of in paragraph 7 were intentional.

10. The unlawful employment practices complained of in paragraph 7 were done with malice or with reckless indifference to the federally protected rights of Anthrone Cunningham.

PRAAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from maintaining a racially hostile work environment or from any other employment practice that discriminates on the basis of race.

B. Order Defendant to institute and carry out policies, practices, and programs that provide equal employment opportunities for African Americans, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Anthrone Cunningham by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 in amounts to be determined at trial.

D. Order Defendant to make whole Anthrone Cunningham by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation, loss of self-esteem and loss of civil rights, in amounts to be determined at trial.

E. Order Defendant to pay Anthrone Cunningham punitive damages for its malicious and reckless conduct, as described above, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this the 25th day of September, 2007.

Respectfully submitted,

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